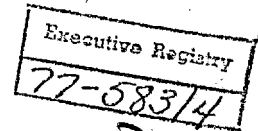


8 March 1977



MEMORANDUM FOR: Mr. George L. Cary
Legislative Counsel

FROM: John H. Waller
Inspector General

SUBJECT: Draft, Suggested DCI Responses to
Questions Supplemental to the
Confirmation Hearings

REFERENCE: OLC Memorandum to all morning meeting
participants dated 2 March 1977 trans-
mitting supplementary questions from
Chairman Inouye of the SSCI

1. Attached hereto is a draft of suggested replies to those supplemental questions which appear to have relevance to the Office of the Inspector General.

2. In some cases, there may be an overlap with responses suggested by the General Counsel. In case of significant differences, we should get together to resolve them.

(signed)
John H. Waller
John H. Waller

Attachment - 1

cc: Acting Director of Central Intelligence w/att
OGC w/att
Assistants to the DDCI (Messrs. Lapham and Clarke) w/att

IG:JHWALLER:hj 7 March 1977 R 1252

Distribution:

✓ Orig w/att - Addressee
1 w/att - Acting DCI
1 w/att OGC
1 w/att - Assistants to DCI
1 w/att - IG Subj (Adm. Turner File)
1 w/att - IG Chrono
1 w/att - HJ Chrono

DCI

INSPECTOR GENERAL SUGGESTED RESPONSES TO
CERTAIN SSCI QUESTIONS SUPPLEMENTING THE
DCI-DESIGNATE'S CONFIRMATION HEARING

E. THE ROLE OF THE DCI AND HIS RELATIONSHIP WITH THE PRESIDENT

2. *One aspect of the personal relationship between the DCI and the President involves the DCI's ability to maintain the delicate balance between having the absolute trust of, while still being independent of, the President.*

What steps will you take to ensure that agencies in the intelligence community will not overstep the bounds of legality or propriety because of requests from the White House?

SUGGESTED RESPONSE:

Executive Order 11905, Section 3(d)(vi), instructs the Director of Central Intelligence to "Establish procedures to ensure the propriety of requests, and responses thereto, from the White House Staff or other executive departments and agencies to the Intelligence Community".

With regard to the Central Intelligence Agency, CIA's Headquarters Regulation HR 7-1c(8)(i) "Support to the White House", which I intend to enforce, describes the established procedure. As can be seen by the operative passage given below, the responsibility is mine:

"Any support . . . extended to the White House Office, excluding the dissemination of foreign intelligence, must have the prior approval of the Director."

Furthermore, in CIA's Headquarters Regulation HR 7-1, Annex E, which I, of course, also intend to have enforced, more detailed procedures are described regulating the approval mechanism for CIA assistance to other government components, including the White House. Some of the relevant passages are given below:

"(1) Each responsible official will report to his Deputy Director or Head of Independent Office for approval of every request for initiation or continuation of assistance to other government components excluding requests:

- (a) Concerning activities explicitly authorized by NSCIDs, DCIDs, or by paragraphs 1c(7)(b) through (h) of this regulation;
- (b) For permission for third agency dissemination;
- (c) For preparation or passage of information, analyses of information, or reports concerning foreign phenomena, including foreign personalities;
- (d) For security clearances and related information under Executive Order 10450 or Executive Order 10865;
- (e) For employment references.

"(3) Deputy Directors and Heads of Independent Offices, in assuring the propriety of all undertakings covered by this regulation, will exercise approval authority on requests with which they concur for any new or continuing relationship compatible with relationships for which legality and propriety have been previously established, except requests for activities, undertakings or agreements that will involve policy or resource implications such as:

.

- (f) Arrangements which, while technically appropriate, may appear to conflict with the spirit of existing law or policy.

Deputy Directors and Heads of Independent Offices will forward to the Inspector General any report with which they concur involving an undertaking of a character for which no precedent of legality or propriety has been established or which involves policy or resource implications such as those identified above. The Inspector General, after requesting and receiving the written opinion of the General Counsel, will recommend initiation, continuation, termination or modification of the activity as he may deem appropriate. Where there is disagreement by the Deputy Director, the Inspector General or the General Counsel, the report will be forwarded to the Director for resolution."

Should the Inspector General of CIA, in the course of his inspections, or the General Counsel, learn of any improper or illegal action carried out because of White House request or request from any government department, they would be bound by Executive Order 11905 to report such situations to the Intelligence Oversight Board and, in the case of requests of a possibly illegal nature, to the Department of Justice as well.

By agreement with the Senate Select Committee on Intelligence (SSCI) dated 21 January 1977, the Inspector General and the General Counsel of CIA will notify the SSCI, through its Staff Director, of such illegal or improper situations in the following way:

"Within a month after any report has been furnished to the Intelligence Oversight Board by the Agency's Inspector General or General Counsel, these officials, unless the Agency is instructed to the contrary by the President, will inform the Committee's Staff Director in writing as to the general nature of the items reported. To the extent that the Committee or its Staff Director may be interested in pursuing further any of these items, the Inspector General or the General Counsel, as the case may be, will be available to provide additional detail . . . "

With regard to other members of the Intelligence Community,
(Language below to be supplied by IC Staff)

However unlikely and improbable, if I am ever ordered by the President of the United States to take an act which I believe to be illegal or improper, I would feel obliged to try to have the order retracted or, failing that, resign.

G. SECRECY: SOURCES AND METHODS, ESPIONAGE LAW, LEAKS

1. *The National Security Act of 1947 provides that the Director of Central Intelligence "shall be responsible for protecting intelligence sources and methods from unauthorized disclosure." This language has been understood to authorize, if not require, the Director of Central Intelligence to take action for protection of such information in agencies other than the CIA.*

- c. *Could the DCI withhold a violation of the Hughes-Ryan Amendment requiring Congressional notification of covert action?*

SUGGESTED RESPONSE:

(OGC should also make a suggestion on a proper response to this question.)

I would not withhold from Congress, the Attorney General or the Intelligence Oversight Board a violation of the Hughes-Ryan Amendment requiring Congressional notification of covert action. In addition to my responsibilities under the Hughes-Ryan Amendment, which I take very seriously, it should be noted that the Inspector General and the General Counsel would have a responsibility to inform the Intelligence Oversight Board, as well as me, if the procedures required under the Hughes-Ryan Amendment, or any other Federal law, are not being properly observed. By CIA's agreement with the Senate Select Committee on Intelligence, matters concerning violation of law and propriety will similarly be made known to that body. With regard to informing the press, this could affect my statutory responsibilities to protect sources and methods and could under certain circumstances jeopardize national security. I, therefore, can give no assurance that I would notify the press.

I. CIA INTERNAL INSPECTION AND REGULATIONS

2. *At present the General Counsel is required to refer to the Department of Justice allegations regarding activities by CIA employees that violate Federal law.*

In order to assist the Committee in its oversight role, will you instruct the General Counsel to notify the Committee when and if such referral takes place?

SUGGESTED RESPONSE:

(This should be prepared by the Office of General Counsel.)

I suggest, however, that the following thoughts be included:

- a. A difference should be pointed out between illegal activities by CIA employees of a private nature and illegal activities conducted by employees in carrying out their job assignments, the responsibility for which may be the Agency's or the employee's.
 - b. It would not be fair to individuals accused for CIA to report to the Committee all "allegations". "Allegations", until they are substantiated, can be malicious and gratuitously harmful to a person's reputation.
 - c. If requirements of this kind were to be levied on the CIA, they should in fairness and logic be levied on all members of the Intelligence Community. Why should CIA be singled out? This question should perhaps be raised in any response made, in view of the DCI's Community responsibilities.
3. *Executive Order 11905 directs heads of intelligence agencies or departments to "ensure that Inspectors General and General Counsels of their agencies have access to any information necessary to perform their duties . . ." At present, CIA regulations require that the Inspector General and General Counsel have access to all information necessary for the performance of their respective duties, but these regulations*

can be withdrawn or modified at any time by the Director.

- a. Should the General Counsel and Inspector General be assured, by statute, of access to all Agency information necessary for their work?*

SUGGESTED RESPONSE:

STAT I would have no objection to a statute which specifies that the General Counsel and Inspector General have access to all Agency information necessary for their work. I would like to assure the Committee, however, that both of these officers now have such access, and it is my firm intention to see that they continue to have it. You should know that CIA's Headquarters Regulation [] gives the General Counsel the access he needs while Headquarters Regulation [] provides full access for the Inspector General. These are consistent with and in implementation of Executive Order 11905, Section 6(c)(3) which states:

"Heads of intelligence agencies or departments shall: (3) Ensure that Inspectors General and General Counsels of their agencies have access to any information necessary to perform their duties assigned by paragraph (b) of this Section" (which describes the responsibilities of Inspectors General and General Counsels).

- b. Will you notify this Committee if either of these officers is denied, on your authority, access to CIA information?*

SUGGESTED RESPONSE:

As stated above, I have no intention to deny either officer access to CIA information which he needs. The Committee would be informed if some unforeseen circumstance caused a change in this policy.

- 4. One of the most effective tools of the Inspector General is the component survey -- an in-depth study of a particular segment of the CIA, such as the Office of Current Intelligence.*

Will you instruct the Inspector General to notify this Committee

*of the schedule of component surveys
and to brief the Committee as to the
general findings of each?*

SUGGESTED RESPONSE:

On one hand, I am concerned by the possible implications and consequences of any commitment on my part to provide the Committee with all findings of the Inspector General. Such findings, made confidentially to me, are important management tools which help me carry out my responsibility to keep CIA an effective organization working within the bounds of law and propriety. Should the present system be changed to broaden the closely held disseminations of the Inspector General's findings, there would be a tendency for Agency personnel to be less forthcoming with the Inspector General, and there could develop in the long run a tendency for the style and frankness of the Inspector General's presentations to become inhibited.

On the other hand, I realize that the Senate Select Committee on Intelligence, too, has an important oversight responsibility and must be certain that CIA is in compliance with law and is observing a standard of propriety compatible with American values. It is with this in mind that the Agency reached an agreement with the Committee on a formula which is described in a letter dated 21 January 1977 from Acting Director E. H. Knoche to the Chairman, The Honorable Daniel K. Inouye. The key points in this formula are as follows:

"Within a month after any report has been furnished to the Intelligence Oversight Board by the Agency's Inspector General or General Counsel, these officials, unless the Agency is instructed to the contrary by the President, will inform the Committee's Staff Director in writing as to the general nature of the items reported. To the extent that the Committee or its Staff Director may be interested in pursuing further any of these items, the Inspector General or the General Counsel, as the case may be, will be available to provide additional detail. With respect to matters reported to the Attorney General, involving possible law violations, the Agency's General Counsel will prepare and submit to the Committee Staff Director, quarterly, a written statement indicating the number of previously reported possible offenses closed out during the preceding quarter by a Department

of Justice decision to prosecute or not to prosecute, together with a brief description of the circumstances, without however identifying the potential violators. These statements would also indicate the number and type of possible offenses reported for the first time during the preceding quarters."

I endorse this agreement and shall make sure it is carried out.

I do not want to do anything which will hamper the Committee in fulfilling its important responsibilities. But I wish to avoid action which might cause CIA personnel to lose confidence and trust in the Inspector General and thus weaken a vitally important mechanism on which I must rely to help keep CIA within the bounds of law and propriety, an objective which I know the Committee agrees with.

I believe this principle applies also to the product of Inspectors General of other members of the Intelligence Community where issues of law and propriety are equally important to the health of our national intelligence effort. While I do not have the same authority over the Inspectors General of other members of the Community, I feel that it would not be equitable or consistent to arrive at any reporting formulas for CIA which are not equally applicable to the rest of the Community.

5. *Since 1973 the Director of Central Intelligence has regularly issued a call to CIA employees to report to him any activities which raise questions of legality and propriety.*

Do you think that this call is sufficient to create an incentive structure that will in practice bring forth reports of questionable activities? If not, what measures are you considering to ensure your ability to be apprised of questionable activities?

SUGGESTED RESPONSE:

I intend to make it clear to all levels of the chain of command, as well as the rank and file, that it is a serious responsibility shared by all to avoid illegal and improper activities and to report such activities if they occur. The Inspection

Staff of the Inspector General's Office will also continue to search out breaches of law and propriety.

I would like to have time to examine the question as to whether the incentive structure will in practice bring forth reports of questionable activities. I have been informed that the response to Director Schlesinger's call for information on questionable activities in 1973, and subsequent requests, brought forth voluminous and uninhibited responses. The Inspector General reports that he has received good cooperation during his compliance surveys. It is also my early impression that personnel are anxious to avoid activities which might bring further disapprobation to the Agency. But I know you will understand when I say that I would like to be in the job somewhat longer before I assess the command and control situation. If problems exist, I shall expeditiously find solutions to them. As a person who has long served in command capacity, I place high importance on discipline and compliance with law, regulation and ethical standards.

6. *It has been suggested that CIA employees having access to secret intelligence might misuse that information for personal profit. At present, managerial level employees must disclose their financial holdings so that a determination can be made as to whether or not there is any conflict of interest. In addition, Section 203 of Executive Order 11222 provides that employees may not "engage in, directly or indirectly, financial transactions as a result of, or primarily relying upon, information obtained through their employment."*

a. *Will you take steps to ensure that this provision is enforced vis-a-vis CIA employees?*

SUGGESTED RESPONSE:

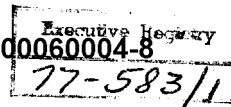
Yes, I shall do all possible to ensure that this provision is enforced. There are now in existence regulations within CIA which aim to control employee activities which could pose conflict of interest problems or permit private profit to be made on the basis of insights gained on the job. Some of these regulations are being strengthened as the result of a recent Inspector General examination of the problem. Perhaps other steps can be made if the Agency finds a problem along these lines developing.

Less easy to control is the misuse of Agency intelligence for personal profit on the part of individual customers who are recipients of sensitive Agency intelligence and analyses.

b. Will you notify the Committee of what steps you have taken?

SUGGESTED RESPONSE:

Yes.



2 March 1977

MEMORANDUM FOR: Morning Meeting Participants

SUBJECT : Supplemental Questions on Admiral Turner's
Confirmation

1. Attached is a copy of a 28 February 1977 letter from Chairman Daniel Inouye, of the Senate Select Committee on Intelligence, to Admiral Turner forwarding questions supplementary to the Admiral's confirmation hearing. The letter pointed out that the Admiral's answers will be published by the Committee as part of the record of the Admiral's confirmation hearing.

2. Please give your immediate attention to those questions and answers which properly impinge on your component's interests. Admiral Turner is sending an interim letter to Senator Inouye stating that he hopes to have his reply ready by 16 March. We ask that your responses reach OLC by 9 March to permit appropriate reconciliation and coordination and approval by the Admiral.

3. Please note that the Senator's letter asks for unclassified answers to all the questions, but adds that any answers requiring the use of classified information be forwarded in a supplementary classified letter.



George L. Cary
Legislative Counsel

Attachment

STAT

DCI

STAT

Approved For Release 2004/03/16 : CIA-RDP80M00165A002500060004-8

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DANIEL K. INOUE, HAWAII, CHAIRMAN
JAKE GARN, ARIZ.

BIRCH BAYH, IND.
ADLAI E. STEVENSON, ILL.
WILLIAM D. HATHAWAY, MAINE
WALTER D. HUDDLESTON, KY.
JOSEPH R. BIDEN, JR., DEL.
ROBERT MORGAN, N.C.
GARY HART, COLO.

CLIFFORD P. CASE, N.J.
STROM THURMOND, S.C.
MARK O. HAYFIELD, OREG.
BARRY GOLDWATER, ARIZ.
ROBERT T. STAFFORD, VT.
CHARLES MCC. MATHIAS, JR., MD.

WILLIAM G. MILLER, STAFF DIRECTOR

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United States Senate

SELECT COMMITTEE ON INTELLIGENCE

(PURSUANT TO S. RES. 400, 94TH CONGRESS)

WASHINGTON, D.C. 20510

OLC #77-0717

February 28, 1977

IN REPLY PLEASE
REFER TO R6616

Admiral Stansfield Turner
Central Intelligence Agency
Washington, D.C. 20505

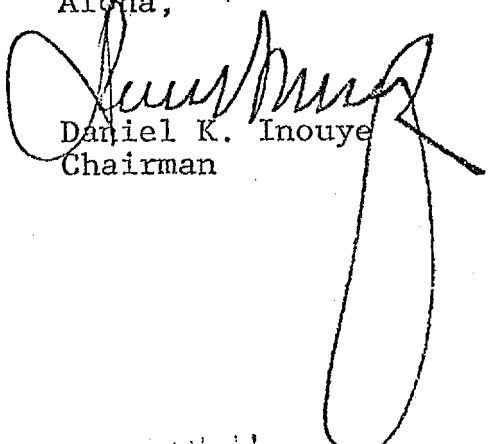
Dear Admiral Turner:

As I indicated to you at your nomination hearing, the Members of the Committee would like you to answer some additional questions which I am enclosing. We plan to publish the questions and your answers as part of the hearing record.

The Committee would like unclassified answers to all the questions. However, if full and complete answers to any questions require the provision of classified information, please identify the questions and answer them in a supplementary classified letter.

The Committee appreciated your forthright testimony. I congratulate you once again on your appointment and confirmation, and we look forward to working with you.

Aloha,


Daniel K. Inouye
Chairman

Enclosure

A. CIVIL LIBERTIES

1. Currently, one of the important controversies in constitutional law is the question of how the President's authority to conduct foreign intelligence activities meshes with the provisions of the first and fourth amendments. The question has most frequently arisen in terms of wiretaps and foreign intelligence cases.
 - a. Could you explain your views of the nature and extent of Presidential authority and how it is limited by the first and fourth amendments?
 - b. Do you believe the President has the power to conduct warrantless electronic surveillance of Americans at home or abroad for foreign intelligence purposes?
 - c. Is it your understanding of the law that if Congress enacts legislation setting standards and conditions for the use of electronic surveillance in foreign intelligence cases, the executive branch, including the President, is bound by those standards and conditions?
2. Last summer, this Committee and the Senate Judiciary Committee reported S. 3197, a bill to require warrants for electronic surveillance conducted in the United States for foreign intelligence purposes.
 - a. Do you favor such legislation?
 - b. Would you favor expanding such legislation to require warrants for electronic surveillance of Americans abroad, as well as in the United States?
 - c. Would you favor expanding the proposed electronic surveillance legislation to require warrants in foreign intelligence cases for other intrusive investigative techniques such as mail opening and surreptitious entries when directed against Americans, either at home or abroad?

- d. Do you think that electronic surveillance of Americans for foreign intelligence purposes at home or abroad should be limited to those instances where there is substantial evidence that the American has engaged in criminal activities?
- e. For the purpose of obtaining a warrant, would you be willing to report to a Federal judge the facts determining the Agency's belief that electronic surveillance should be conducted against an American living abroad?

B. LEGAL AUTHORITY

1. In February of 1976, President Ford issued Executive Order 11905 on United States foreign intelligence activities. The Executive Order was issued in order to "clarify the authority and responsibilities of the intelligence agencies."

Would you tell the Committee your views of the Executive Order, particularly as it relates to the following issues:

- a. Is an Executive order which can be changed at the will of the President, and which provides no penalties for its violation, sufficient to define the varying missions of the intelligence agencies and to fix firm limits on their activities?
- b. While the DCI is to provide guidance on the relationship between tactical and national intelligence, under the Executive Order the DCI does not have any responsibility for tactical intelligence. Previous DCIs have had the right to review the allocation of all intelligence resources, including tactical intelligence. Do you believe that the Executive Order has an undesirable effect of weakening the DCI's authority in this area?

- c. Under the Executive Order, the DCI is to "ensure the development and the submission of a national intelligence budget." At the same time, the Committee on Foreign Intelligence, now the Policy Review Committee (PRC), is to "control budget preparation of the national intelligence program," and the Secretary of Defense has the responsibility to "direct, fund, and operate" the NSA. How can these potentially contradicting charges be resolved?
 - d. What changes would you recommend in the present Executive Order?
2. The authority of the CIA to engage in certain activities rests on directives issued by the National Security Council, called National Security Council Directives or NSCIDs. These NSCIDs have in the past been referred to as the CIA's secret charter and were withheld not only from the public but also, until recently, from Congress.
 - a. If these NSCIDs are revised or new NSCIDs are issued, will you provide these to the Committee as your predecessor has done?
 - b. Do you believe that the oversight committees of Congress should be consulted during the preparation or revision of these NSCIDs?
3. CIA practices are also affected by directives issued by other persons, such as the DCI and the Policy Review Committee (PRC).

Will you provide to the Committee all such directives and modifications of directives, including DCIDs and directives from the PRC?

4. As Director of Central Intelligence, your advice may be sought on the question of charters for the intelligence agencies. The 1947 National Security Act, the CIA's statutory charter, has been termed inadequate in a number of areas. At the present time, the National Security Agency and the Defense Intelligence Agency have no statutory charters. The FBI's authority to engage in domestic intelligence activities has been questioned.

- a. Should a new CIA charter explicitly authorize covert action?
- b. Should there be specific statutory authority for the CIA to collect intelligence?
- c. What activities should the CIA be allowed to undertake in the United States? Should a new charter precisely define those activities?
- d. Do you favor statutory charters for the National Security Agency and the Defense Intelligence Agency?
- e. Do you agree with Attorney General Bell that the FBI needs a clear charter?
- f. Should there be statutory limitations on the permissible activities of all of the intelligence agencies? Should violations carry criminal sanctions?

C. CLANDESTINE ACTIVITIES

1. When you take over as Director of Central Intelligence, you will inherit the present apparatus of ongoing covert action and clandestine collection operations.

Will you pledge to consult with this Committee on the feasibility and wisdom of the various ongoing programs before making any final determination as to their continuation or termination?

2. CIA clandestine operations, both covert action and clandestine collection, comprise a wide variety of activities. In this connection, the Committee would like to explore your attitude towards two specific kinds of operations.
 - a. What are your views with respect to the covert involvement of the United States, in any manner, in the elections of a foreign country?

- b. Under what circumstances would you approve covert payments to foreign leaders?
 - c. What are the factors that would most influence your judgment on the advisability of various types of clandestine operations, such as the two mentioned above?
3. This Committee is reluctant to request the identity of covert agents because we recognize the extreme sensitivity of such information and because the need for such information rarely exists.
- a. If, in the view of the Committee, the conduct of its oversight role were to require such information, would you provide it?
 - b. For example, if the Committee were to investigate an abuse involving a covert agent whom it would wish to interrogate, would the agent be made available to us?

D. INTELLIGENCE AND POLICY

1. You served as NATO's Commander of Allied Forces for Southern Europe, and previously served as commander of the U.S. Second Fleet in the Atlantic. In both positions, you were exposed to a great deal of intelligence, provided not only through service intelligence agencies and national intelligence agencies but also through NATO itself.
- a. What was the value of the intelligence you received to long-range military planning and NATO operations?
 - b. What was the value of this intelligence to your more day-to-day operational needs and to your requirements for indications and warning?
 - c. Did you perceive any significant gaps in U.S. intelligence reporting?

- d. What ideas for improving the U.S. intelligence effort have you gained from your experience as a commander of U.S. Navy and NATO forces?
2. Between 1971 and 1972, you served as chief of the Systems Analysis Division of the Office of Naval Operations. In that capacity you were involved in the Navy's efforts in "net assessments."
 - a. In light of your experience, how much emphasis do you think the intelligence community should put upon net assessments as opposed to more traditional estimates?
 - b. What should be the role of the intelligence agencies in net assessment?
 - c. Would you as DCI be averse to conducting net assessments in which analysis of U.S. capabilities and intentions would be explicit or implicit?
 - d. How would you evaluate the net assessments efforts of the Defense Department and the executive branch?
3. As Director of Central Intelligence, you will have primary control over the collection and production activities of the CIA. As part of its general effort in military intelligence areas to support the President, the CIA produces intelligence on naval forces.
 - a. What is your opinion of the strengths and weaknesses of the CIA's analyses of naval forces?
 - b. How do their analytical efforts compare with those of the Navy?
 - c. How do they compare with the work of DIA?
4. In the area of intelligence support to policymaking, one of the Committee's concerns is the degree to which Congress has not been a recipient of intelligence analysis that could assist the Members in making important national decisions.

Are you prepared to provide the Congress with intelligence, even when it may not support the policies of the President, or when it may embarrass the President?

5. Former DCI William Colby has recently argued that more of the intelligence community's analysis should be made available to the public.
 - a. Do you share this view?
 - b. What advantages do you see in this more open procedure? What dangers?

E. THE ROLE OF THE DCI AND HIS RELATIONSHIP WITH THE PRESIDENT

1. The role of the Director of Central Intelligence encompasses three somewhat conflicting responsibilities: intelligence advisor to the President, Director of the CIA, and manager of the intelligence community.
 - a. How do you define the Director's role? Which of these responsibilities will be most central to you?
 - b. Do you believe that there is a potential conflict between the need to provide the President with objective intelligence and a natural tendency to place your trust in the intelligence generated by the Agency which you head?
2. One aspect of the personal relationship between the DCI and the President involves the DCI's ability to maintain the delicate balance between having the absolute trust of, while still being independent of, the President.

What steps will you take to ensure that agencies in the intelligence community will not overstep the bounds of legality or propriety because of requests from the White House?
3. The DCI's Presidential advisory role overlaps in particular with those of the President's Assistant for National Security Affairs and the Secretary of State.

- a. Have you discussed this issue with Mr. Brzezinski and Mr. Vance? How do you view your respective roles?
- b. Do you think that your ability to bring intelligence to bear on policy would be enhanced by making the DCI a statutory member of the National Security Council?

F. SELECTION OF DEPUTY DIRECTOR

Under the provisions of the National Security Act of 1947, a DCI who is an active duty military officer must have a civilian Deputy Director for the CIA. A second deputy directorship with responsibilities for the intelligence community was created by Executive Order 11905. No restriction exists regarding that Deputy's military or civilian status.

Will you choose or request an active duty military officer for the position of Deputy Director for the intelligence community?

G. SECRECY: SOURCES AND METHODS, ESPIONAGE LAW, LEAKS

1. The National Security Act of 1947 provides that the Director of Central Intelligence "shall be responsible for protecting intelligence sources and methods from unauthorized disclosure." This language has been understood to authorize, if not require, the Director of Central Intelligence to take action for protection of such information in agencies other than the CIA.
 - a. How would you define "sources and methods?"
 - b. Does the term include information not presently prohibited from disclosure by the Federal espionage statute or the Executive Order on classification (E.O. 11652)?
 - c. Does it include information pertaining to illegal acts by intelligence agencies? For example, could the DCI withhold from the Attorney General, the Congress or the press

- information pertaining to violations of the CIA's "internal security" restrictions? Could the DCI withhold a violation of the Hughes-Ryan amendment requiring Congressional notification of covert action?
- d. How would you define the scope of authority relating to sources and methods in the language of the 1947 Act?
 - e. Does this language only provide the authority to coordinate the development of uniform community-wide standards on protecting vital secrets, the position taken by former DCI Colby and the Church Committee? Or does it provide an operational responsibility, e.g. the authority to investigate "leaks," including the authority to conduct surreptitious entries and electronic surveillance in the U.S. to determine the source of leaks, an authority claimed by some former DCIs?
2. The Ford administration requested the Congress to enact amendments to the Federal espionage statute on behalf of the intelligence community. Some aspects of that legislation are noncontroversial. Other provisions may prompt some concern, especially those attaching criminal sanctions to the press for printing classified information.
- a. Do you think it is appropriate to focus the sanction upon the press as well as the government employee who leaked the information?
 - b. Should such a statute authorize Federal investigations of newspaper reporters who report classified information in their articles?
 - c. Do you believe that the Espionage Statute of 1917 and the accompanying Presidential executive orders on classification permit too much secrecy?
 - d. In addition to seeking amendments to Federal law which provide sanctions against legitimate secrets, will you seek amendments in both the statute and the orders which will decrease unnecessary secrecy?

3. There has been a great deal of criticism in recent years, some of it from the executive branch, suggesting that Congress has been irresponsible with state secrets. However, two of the most serious breaches of security to occur during this period pertain to secrets in the exclusive domain of the executive branch. Section 3(d) of Executive Order 11905 provides that the DCI, among other responsibilities, develop programs to protect intelligence sources and methods and ensure common security standards for the community.

Will you, pursuant to Section 3 of the Executive Order, reexamine these various security procedures? Will you be proposing changes in the procedures to combat such leaks?

4. Vital secrets are leaked in the newspapers. In some such cases, information has been leaked which may be vital to the national security, e.g. a critical clandestine collection program or information which appears to compromise a particular source. These leaks threaten intelligence operations because they put the target of the operation in a position to take effective defensive measures. It would seem logical for the CIA to attempt to confuse a hostile government about what we had gained from that operation. In other words, the Agency could actually engage in "disinformation" by leaking confusing information to the press.
 - a. Do you think it is appropriate for the Agency to respond to such a leak by engaging in such disinformation programs?
 - b. If so, should such disinformation or misinformation programs only be initiated after there has been a damaging leak, or do you believe that it is appropriate to conduct such a program to confuse hostile governments in the absence of such a leak?
 - c. Do journalists knowingly participate in such disinformation programs?
 - d. What checks or controls does the Agency have upon such programs in order to avoid misinformation or disinformation from being used

by the Agency to confuse the media or the Congress about illegitimate activity of the CIA?

- e. Will you provide the Committee with any CIA assessment of the damage caused by these breaches of security?
5. At the time that Attorney General Levi and President Ford were pursuing their wiretap proposal last year, Attorney General Levi took the position that it was necessary to authorize electronic surveillance of corporations which export technology to foreign countries. In essence, he was arguing that our government should monitor the export of technological processes, even though such processes are not classified or even classifiable, indeed, even though the export of that technology does not violate any law.
- a. Do you agree with that position? Is there information in the hands of private companies which is not directly relevant to the national defense but which we should prohibit from export or disclosure to a foreign power, e.g. computer technology?
 - b. Do you believe that such information should be subject to control through amendments to the Executive Order, the espionage statute or perhaps some other Federal statute, such as the Export Administration Act?
 - c. Is the real issue with such information that it is vital to the national defense? Or is the real issue that since American "know how" may be an important "bargaining chip" in negotiations with foreign governments such information must be controlled for foreign policy reasons?

H. BUDGET AND MANAGEMENT OBJECTIVES

- 1. This Committee has responsibility for exercising oversight over national intelligence, not only in the constitutional sense but also in the broader context of

ensuring that the long-range development of collection and production supports the needs of the national policy. Thus, it is important that the Committee understand your objectives and goals for national intelligence.

- a. Given your unique perspective as a consumer of intelligence in the senior ranks of the Defense Department, what do you think are the most pressing challenges facing national intelligence in the coming decade?
- b. In your opinion, what are the strengths and weaknesses in the way national intelligence is now dealing with those challenges?
- c. Given the vast complexity of intelligence, what type of management approach will you take in monitoring and directing the focus of the national intelligence community in the coming decade?
- d. Has the President, or any senior-ranking official provided you with guidance on what they expect the national intelligence community to achieve in the coming years?

[If so] What were the principal themes in that guidance?

[If not] What do you believe are the major management and policy objectives which should guide your actions during your tenure as DCI?

2. One of the major arguments against disclosure of the aggregate intelligence budget figure is that publication will result in demands for more detailed information.

What is your response to that argument?

3. An argument against annual disclosure of the aggregate budget figure or any element of the intelligence budget is that publication will allow our adversaries to determine the program changes in specific U.S. intelligence

capabilities, such as a major allocation for the development of a new technical collection system.

What is your response to that argument?

I. CIA INTERNAL INSPECTION AND REGULATIONS

1. Existing procedures require that the CIA's General Counsel review activities which raise questions of legality. Some potentially sensitive clandestine activities are reviewed by the CIA's General Counsel who is placed in a somewhat contradictory position of both reviewing the particular activity and facilitating CIA's overall mission.
 - a. Would you support a requirement that potentially sensitive clandestine activities such as those alleged to have taken place in Micronesia be reviewed for legality by the Attorney General of the United States?
 - b. What threshold would you establish to trigger such a review?
2. At present the General Counsel is required to refer to the Department of Justice allegations regarding activities by CIA employees that violate Federal law.

In order to assist the Committee in its oversight role, will you instruct the General Counsel to notify the Committee when and if such referral takes place?

3. Executive Order 11905 directs heads of intelligence agencies or departments to "ensure that Inspectors General and General Counsels of their agencies have access to any information necessary to perform their duties..." At present, CIA regulations require that the Inspectors General and General Counsels have access to all information necessary for the performance of their respective duties, but these regulations can be withdrawn or modified at any time by the Director.
 - a. Should the General Counsel and Inspector General be assured, by statute, of access to all Agency information necessary for their work?

- b. Will you notify this Committee if either of these officers is denied, on your authority, access to CIA information?
- 4. One of the most effective tools of the Inspector General is the component survey--an in-depth study of a particular segment of the CIA, such as the Office of Current Intelligence.

Will you instruct the Inspector General to notify this Committee of the schedule of component surveys and to brief the Committee as to the general findings of each?

- 5. Since 1973 the Director of Central Intelligence has regularly issued a call to CIA employees to report to him any activities which raise questions of legality and propriety.

Do you think that this call is sufficient to create an incentive structure that will in practice bring forth reports of questionable activities? If not, what measures are you considering to ensure your ability to be apprised of questionable activities?

- 6. It has been suggested that CIA employees having access to secret intelligence might misuse that information for personal profit. At present managerial-level employees must disclose their financial holdings so that a determination can be made as to whether or not there is any conflict of interest. In addition, Section 203 of Executive Order 11222 provides that employees may not "engage in, directly or indirectly, financial transactions as a result of, or primarily relying upon, information obtained through their employment."
- a. Will you take steps to ensure that this provision is enforced vis-a-vis CIA employees?
- b. Will you notify the Committee of what steps you have taken?

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